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August 9, 2021

VIA ECF

Honorable Raymond J. Dearie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Jose Carlos Grubisich

Dear Judge Dearie:

This letter is respectfully submitted on behalf of Jose Carlos Grubisich, whom the Court will sentence on August 24, 2021, for bribery and securities fraud (“books and records”) crimes.

Born in a poor town in rural Brazil, Mr. Grubisich is a self-made man with a record of accomplishments and good deeds that is extraordinary. As a businessman, he has helped bring Brazil into the 21st century and raised the living standards of thousands of men and women. As a family member and friend, he has given of his time and resources to many, expecting nothing in return. See letter of Jose Nimo (“[g]enerosity . . . is one of Jose Carlos’ most outstanding human values, being concerned about people’s well-being, his friends and contributing to humanitarian

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campaigns in the communities”).¹ And as a public citizen, he has led and supported organizations devoted to child welfare, health care and the environment, all with “assiduous interest and dedication.” Statement of Fundacao Abrinq (Brazilian children’s rights organization). His good works and decency have earned him induction in the Legion of Honor, France’s highest distinction, as well as numerous other awards.

Mr. Grubisich has accepted responsibility for his criminal conduct and is deeply remorseful. That should matter. But more is involved here than Mr. Grubisich’s crime. As one judge has written, “on this day of judgment [a defendant’s sentencing] one must judge the man as a whole.” United States v. Gupta, 11 Cr. 907 (JSR)(S.D.N.Y. Oct. 24, 2012), Doc. 127 at 11. We ask the Court to judge Mr. Grubisich’s life “as a whole” and sentence him to time served (four months, which does not include his 17 months’ house arrest), allowing him to return home to Brazil.

A. Early Years

Jose Carlos Grubisich was born on [REDACTED], in the town of Itatinga, Brazil (then population 5,000), 140 miles from Sao Paulo. The town was isolated and had little infrastructure. The roads were unpaved and often muddy, and a sewage system was not installed until Jose Carlos was seven. Most of the town’s residents were farmers. Jose Carlos’ father owned a local grocery store, where Jose Carlos worked part-time from an early age. His parents had no

¹ The more than 100 letters from Mr. Grubisich’s family and supporters are attached as exhibits. Many of the letters were translated from Portuguese and therefore are unsigned. The original letters are available should the Court wish to see them.

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formal education but instilled the values with which he has lived his life. Above all, they preached the value of education, and, when Jose Carlos was 14, they enrolled him in school in Botucatu, a larger town, some 22 miles away. See letter of Katia Grubisich (“his parents had little education but . . . a great desire to give their children the best education possible”). Waking up at 5:00 a.m., he travelled an hour or more to and from school, hitching rides with neighbors. In his last two years of secondary school, he and others rented a house in Botucatu so that they could have more time to study. See letter of Pastor Carlos Alves (Jose Carlos “was always the first-in-class”).

Having excelled in secondary school, Jose Carlos entered college at Oswaldo Cruz University in Sao Paulo at 18. He was the first in his family to attend college, working during the day and taking classes at night. His passion was chemistry. (As a boy, he would spend his allowance at the local pharmacy on chemicals and mix them at home to observe the reaction.) At the beginning of his first year of college, a major frost hit Itatinga, destroying the coffee trees and causing laborers to move away. The grocery business suffered greatly. The stress proved too much for Jose Carlos’ father, and at age 50, he had a massive heart attack and died. His mother writes this about the aftermath:

[W]e suffered a lot, [Jose Carlos], me, and my daughter Cristina, who was four years old. It was just the three of us [Jose Carlos] would come home every weekend to help me with the small grocery store we had. The struggle was huge, but we won [Jose Carlos] managed to be a father to his sister and to me.

Letter of Albertina Grubisich; see also letter of Cristina Grubisich Diarcadia (Jose Carlos “filled the paternal space with his brotherly and unconditional love”).

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After five years at Oswald Cruz University, Jose Carlos graduated with a degree in chemical engineering. See letter of Denoyer Asencao (Jose Carlos “stood out as one of the most intelligent, ethical, and dedicated students”); letter of Evandro Souza (he was “liked by all due to his empathy and collegial spirit”). Having obtained his degree, he embarked on a business career at a time when international companies were investing heavily in Brazil for its natural resources.

B. Business Career

1. Rhodia

In 1976, while still in college, Jose Carlos began working at Rhodia, a company headquartered in France that was then the largest chemical and pharmaceutical company in Brazil. He spent the next 25 years with the company. He began as a trainee in the business development program and rose through the ranks to positions virtually unprecedented for someone not French. See letter of Mariangela Gianfratti (“[h]is ascension happened naturally by merit”). He was promoted nearly every two years with stints as general manager of the company’s Portugal operations; managing director of its Latin American agrochemical business; CEO of Brazil; and Vice President of Global Operations and President of Rhodia’s Global Fine Organics Division. His appointment as CEO of Brazil came in 1996, when he was 39 years old. In his letter to the Court, Edson Musa explains that he selected Jose Carlos as CEO because of his “excellent professional performance . . . that made him much admired by his colleagues and the Brazilian business community.” Letter of Edson Musa.

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Those who worked with Jose Carlos at Rhodia sing his praise. The words of Cesar Gomes, a Human Resources professional, are typical:

[Jose Carlos] had developed great leadership skills, always treating people with great respect, a desire to generate opportunities to develop them, and a humanistic approach to his management. There were difficult times when José Carlos needed to be strict with his employees. Even so, a high level of politeness and respect prevailed [H]is ethical conduct was always evident, as well as the example of seriousness and legality in dealing with a business that he tried to transmit to his employees and demanded from them the same procedure In the lectures I have given, I have often mentioned his name as a model leader: Besides his energy and competence in business . . . Jose Carlos was . . . exemplary . . . for his respect, humanism, responsibility, and ethics.

Letter of Cesar Gomes.

Others speak similarly of his leadership skills. See letter of Eduardo Barrella (“I have always admired Mr. Grubisich’s . . . courage in facing and solving problems, as well as his cordial attitude and good relations with his colleagues, regardless of hierarchical level”); letter of Nilton Perez (Jose Carlos “captivated his colleagues and staff; he was a source of pride to the company’s professionals for the management skills he demonstrated in all fields”); letter of Ana Silva (“Jose Carlos never made any distinction in his treatment of colleagues or subordinates, treating everyone with great kindness, friendliness, and respect”); letter of Rui Chammas (“he was always an exemplary leader . . . especially for his values linked to respect for . . . employee safety, relationship with society and ethical and moral standards”).

The letters from those who worked with Jose Carlos at Rhodia reveal his commitment to advancing their careers. He was a mentor to many. See, e.g., letter of Walter Cirillo (“[h]e was responsible for guiding and directing the careers of countless young

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Executives”); letter of Rui Chammas (“we talked about life and career . . . [and he] oriented me, as he always did to everyone”); letter of Mariangela Gianfratti (“I never thought that a leader in his position would care about me, taking precious time out of his schedule to praise and train me”); letter of Nilton Perez (“[m]y career . . . was always encouraged by Jose Carlos, who was responsible for my evolution”); letter of Cesare Masseroni (“[h]e inspired me to build my international career; the opportunity [he provided] drove my professional growth”).

2. Braskem

By 2001, Jose Carlos was one of a small group of people overseeing the operations of Rhodia. He was responsible for the company’s environmental initiatives and its health and safety programs, and after the 9/11 attack, worked tirelessly to secure its chemical assets from terrorist threats. He was living in France (he had taught himself French after college), where he expected to remain the rest of his professional life. Late in the year, however, a recruiter contacted him about returning to Brazil to help consolidate the Brazilian petrochemical industry. The task was daunting -- to combine seven companies into one and lead the merged entity. He accepted the offer, and left a comfortable life in Paris to return to Brazil to contribute to his country by building a competitive international firm. In August 2002, he became the CEO of Braskem, the consolidated company.

Although Brazilian, Jose Carlos found himself an outsider at Braskem. The company was affiliated with Odebrecht S.A., a family-owned Brazilian-based conglomerate in the fields of engineering, construction and petrochemicals, which controlled a majority of Braskem’s

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voting shares. Jose Carlos was “the first and . . . the only CEO of any Odebrecht Group company who was recruited from the market.” Letter of Luciano Dequech. Almost from the start, his relationship with Marcelo Odebrecht was strained, and in 2008, Marcelo caused Jose Carlos to be removed as Braskem’s CEO and replaced with Bernardo Gradin, whose family was a major shareholder of Odebrecht. Jose Carlos was told that he was not “political enough” for the job.

In his six years as Braskem’s CEO, Jose Carlos grew Braskem into the largest petrochemical company in Latin America and a major player in the world petrochemical market. See letter of Marcelo Stella (“he was totally dedicated to the consolidation of Braskem as a world-class Brazilian company”). He implemented state-of-the-art safety, labor and environmental practices. Ulrico Barini, Braskem’s human resources director, writes this about Jose Carlos’ leadership:

As the leader of the organization that was formed, Mr. José Carlos had one of the greatest challenges to instill hope in [the] people who formed the teams In an environment of tension and uncertainty, typical of a merger operation, [he] never changed his humor, communication skills, and openness to listen to [others]. I well remember guidance to those who reported to him that we should treat each individual as special and do everything so that people would feel comfortable in the new environment [W]e made a lot of moves and promotions. Mr. José Carlos guided us and made sure that we used transparent, republican, and meritocratic criteria in our decisions.

Letter of Ulrico Barini.

At Braskem, Jose Carlos focused on technology, innovation, and the international expansion of the company. Among the greatest accomplishments of his tenure was the development of green plastics (sometimes called bioplastics). Paulo Nigro explains:

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The most expressive example [of Jose Carlos' tenure] was the development of the first green plastic worldwide, the low-density polyethylene produced from sugar cane. This project was of great environmental and social impact because it would replace, in the production of plastic, raw materials of fossil origin for sources of renewable origin, drastically reducing its carbon footprint . . . I have no doubt that it is thanks to Grubisich's vision, effort, and resilience that green plastic is now a global and rapidly expanding reality.

Letter of Paulo Nigro, CEO of Tetra Pak Group; see also letter of Goncalo Pereira, professor of genomics ("producing polyethylene from ethanol [was] an extraordinary step towards decarbonizing the atmosphere [and] something [Jose Carlos] did out of conviction, without any regulatory pressure"). Green plastics was one of the many products that Braskem developed at the research center Jose Carlos established in the Brazilian state of Rio Grande do Sul. For his contributions to the state, he was awarded its highest honor, the Medalha Farroupilha.

One can tell much about a "boss" by the way they treat their administrative assistants. As they explain, Mr. Grubisich has always been a consummate gentleman. See letter of Liliane Kelsey ("[h]e always treated me with extreme consideration [and] was very understanding and offered me support when I had some private problems"); letter of Gisele Kaltenbacher ("I never witnessed . . . anything that discredited him, quite the contrary, I always saw [him] treat everyone with great attention, politeness, and affection"); see also letter of Francisco Almeida ("your Honor may think I described his as a perfect person because I was his driver, but honestly, I would just like to put it the way I look at it").

For five consecutive years at Braskem, Jose Carlos was named the business person of the year for the chemical and petrochemical sector by Brazil's leading financial newspaper. It was at Braskem, however, that the crimes for which he has pled guilty occurred. See Part E infra.

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3. ETH

On leaving Braskem, Jose Carlos became the CEO of ETH Bioenergia, a new company that produced ethanol from sugar cane. As Sergio Fiorin writes, the challenges were formidable:

When I joined the team at . . . ETH . . . [w]e had the challenge to complete the construction of 7 agro-industrial units for the production of ethanol and energy, distributed in 4 Brazilian states . . . and also to form the cane fields to feed the industries and, obviously, the biggest challenge behind everything was of attracting people with the necessary competence to form teams.

Letter of Sergio Fiorin.

Jose Carlos' greatest challenge was bringing skilled employees to a company whose production facilities were located in poor agricultural communities. (ETH developed one million acres of sugar cane land; to reduce transportation costs, its processing plants had to be close to the fields.) Jose Carlos made training his priority. In 2010 and 2011, for example, 10,000 employees received 190,000 hours of training. In 2011, ETH granted 120 college scholarships and 40 graduate school scholarships to its employees. More than 240 forums were held in the five municipalities in which ETH operated to address social and environmental concerns. Letter of Luis Felli. In the words of Mr. Felli, who worked closely with Jose Carlos at ETH: "[v]aluing people has always been one of [Mr.] Grubisich's true priorities." Id.

In his letter, Gustavo Sergi writes about Jose Carlos' abiding concern for the environment and the health of ETH's workers:

I was always impressed by the care that Mr. José Carlos dealt with the social and environmental issues of the operation in question. Whether in the concern with the health system of the cities that would receive many new workers, or in

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environmental issues, since land management, planting, and harvesting in large areas should be carefully planned and executed to avoid any damage. I did not imagine that José Carlos, as the company's CEO, would devote so much attention to these topics, thus spreading this same sense of responsibility to the environment and the community throughout the company.

Letter of Gustavo Sergi.

When Jose Carlos left ETH in 2012, the company had 10,000 employees, nine ethanol production facilities and annual revenue of \$1.5 billion. Even more importantly, it had modernized sugar cane production in Brazil and lifted thousands of rural Brazilians, many of them women, out of poverty into a middle class life. See letter of Raul Neto (Jose Carlos is “responsible for thousands of decent jobs benefitting countless families and enriching Brazil”). For his contributions, Jose Carlos was named an Honorary Citizen of Mato Grosso do Sul, a western Brazilian state, as well as business person of the year for the sector. See letter of Sergio Fiorin (“[w]hen Mr. Grubisich left the company . . . his legacy of respect for people and extreme professionalism remained alive and all units followed his growth plan and currently employ over 20,000 people”).

4. Eldorado

Having taken ETH from a start-up to a thriving business, Jose Carlos was recruited to be the CEO of Eldorado Brasil Celulose S.A., a Brazilian company which produces pulp from eucalyptus plants. As CEO, he oversaw the installation of one of the largest pulp mills in the world. See letter of Miguel Jorge, journalist and former board member (“[t]his initiative was a great success, and today, this company is a major producer and one of the world's largest exporters

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of pulp”). More than 200 million eucalyptus trees were planted near the mill. Robert Davidson, the General Manager of North America for Eldorado, writes this about Jose Carlos’ tenure:

It was my experience that Mr. Grubisich is a talented, professional executive who behaved in an exemplary manner during the time I worked with him. He is a natural leader who set a high bar for transparency and integrity in all our negotiations with our clients. He treated everyone who worked for the company with the same respect whether a director or a truck driver. Mr. Grubisich is a man who stood by his word and expected others to do the same.

Letter of Robert Davidson.

As was true at ETH, Jose Carlos took a keen interest in the communities in which Eldorado built its plants. In her letter to the Court, Marcia de Paula, the former Mayor of Tres Lagoas, one of those communities, describes Jose Carlos’ actions as her town’s population “blossomed”:

Our Três Lagoas blossomed from 80 thousand inhabitants to 120 thousand. It was when I met Mr. Grubisich that I was able to . . . “embrace” our development, listening and dialoguing with this experienced citizen, family citizen, who helped me, above all, to develop several points of our city in an organized way. He was always sensitive to humanitarian causes, to sustainable growth projects, to provide training with qualification to the workforce, he helped in the Health of the Municipality, in short, he left us a legacy of citizenship, appreciation of life and great gratitude. I counted a lot on his advice, who was always ready to help in this mission that was so important for the population and for me.

Letter of Marcia de Paula. Eldorado’s success brought prosperity to a rural state. See letter of Francisco Costa (“our state’s [development] is largely due to Mr. Grubisich’s entrepreneurial spirit when he was at the head of Eldorado Celulose, generating thousands of jobs and transforming the lives of rural producers”). Mr. Grubisich was CEO of Eldorado for five years before retiring to private life in 2017.

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5. Verdana and Seleon

With his success in business, Jose Carlos purchased several properties surrounding his parents' home and began raising Nelore cattle. (Nelore cattle were brought from India to Brazil more than 100 years ago and have thrived there, being resistant to heat and parasites.) In 2007, while still at Braskem, Jose Carlos established Verdana, which is dedicated to improving the quality of the cattle. The company now has some 20 employees and raises cattle that are "unique examples of the breed." Letter of Breno de Barros ("they were products of an intense work of genetic selection and nutrition"). See letter of Jovelino Mineiro ("Jose Carlos stands out as a Nelore breeder"). For his efforts, he is considered "one of the most serious and correct men . . . in the market." Letter of Alfredo Zamlutti.

In 2013, Jose Carlos and his son established Seleon, now one of the leading companies in Latin America for bovine insemination. Breno de Barros, who works at Seleon, writes about Jose Carlos' "thoughtfulness concerning the . . . work":

[W]orking with Mr. José Carlos [is] a great differentiator and reason for satisfaction, a fact recognized by all breeders, service providers and employees. His efforts to do the best job he could, with investments in technology and training for everyone involved, have always been a highlight in the animal breeding activities held by [him]. His fairness with regards to salaries, awards, maintenance of safe facilities for the development of the work transcends professional limits.

Letter of Breno de Barros; see also letter of Jose Bento Ferraz ("Mr. Grubisich and his son, Bruno, created one of the most technological[ly] advanced companies in artificial insemination and embryo transfer").

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One does not expect a tough-minded journalist to speak glowingly about a business leader, but Carlos Marques' letter does just that. It captures the essence of Jose Carlos' professional career:

Due to his unique capacity, Mr. Grubisich was directly responsible for the assembly and idealization of [Brazilian] companies and turned them into references [for] the potential Brazilian entrepreneur. [He was] a respected example of commitment, seriousness and professionalism Grubisich's sense of responsibility led him to prioritize knowledge first. He was especially interested in innovation and technological advancement in various fields of activity. It has always been his true obsession, the fuel that fuels his saga José Carlos is a pride for all of us.

Letter of Carlos Marques.

C. Family

In 1982, Jose Carlos married Katia Pereira; he was 25, and she was 22, having met four years earlier. In her letter to the Court, Katia, a psychologist by training, describes their time together as "44 years of . . . love, unity, respect, and . . . admiration for each other." Letter of Katia Grubisich. She emphasizes his devotion to her family: his taking in her widowed sister and providing for the moral and financial education of her sister's children; his paying for the expensive medicines that her mother needed to battle cancer; and his supporting her father, who now is a widower. Id. ("I feel . . . enormous gratitude for everything he has done all his life for my family . . . without having this obligation").

Jose Carlos and Katia have two children Bruno (38) and Bianca (35). Bruno manages Seleon and the family's livestock farms and is a fin-tech entrepreneur. He describes his father as his role model:

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Growing up with such [a] role model to look up to was a privilege but also a challenge. However, even when I felt that I [was] not up to the task, he kept on supporting me in the quest for my goals He always told me that focus and hard honest work would be the key to succeed in my professional life. He also taught me that, whenever one becomes successful in life he should give back to society. Over the years we have contributed to social work, first in my father's hometown . . . [b]ut, as our operations grew . . . nationwide. Treating everyone with the same respect and consideration as I would like to be treated with was one of his greatest precepts.

Letter of Bruno Grubisich.

Bianca is an architect and the mother of two girls. She writes about how Jose Carlos taught her to be a generous person and “gave [her] opportunities and the courage to follow the best path”; how he “was always on [her] side” when she struggled with severe depression; and “how amazing he is” as a grandfather. See letter of Bianca Grubisich (“[my daughters] find him so amazing they call him by the superhero name, grandfather of steel”); see also letter of Luciano Luft (“he gave his son and daughter the best education, teaching the most important social and ethical principles [and they] have become kind and straightforward people”).

Several letter writers discuss Jose Carlos' extraordinary devotion to his mother, who is now 83 years old. See, e.g., letter of Katia Grubisich (“[m]y husband is and has been a present, loving and caring son, and he calls his mother every day to get updates on how she is doing”); letter of Cristina Diarcadia (“he gives her a life of comfort and security”). In 2006, his mother was diagnosed with cancer, and he arranged for her treatment at the leading Brazilian hospital, where “[h]e was present every moment.” Id. Invasive surgery led to complications from which she almost died. In late 2020, the cancer reoccurred, and surgery is again recommended. As Jose Carlos' daughter writes, “my grandmother is afraid of dying [during] surgery so she

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prefer[s] to wait for him to come back.” Letter of Bianca Grubisich. Jose Carlos’ mother expresses her wishes in her letter: “I hope he come[s] before I die; I can’t wait for [us] to be together again.” Letter of Albertina Grubisich.

For Jose Carlos, family means more than just his mother, Katia, his children and granddaughters. His is an extended family, and he cares for its members. See letter of Andre Dicarcadia, brother-in-law (“[w]ith the common difficulties of beginning my [medical] career, [he gave] considerable support and . . . financial help”); letter of Josiedi da Silva, cousin (“I owe [him] the . . . professional career that I was able to build throughout almost 27 years”); letter of Jeferson Pereira, son-in-law (he has “made one contribution after another [to my life and character with] his acts of kindness and compassion”); letter of Aloir Pereira, father-in-law (“[t]here have been many situations in which he . . . made it possible for me to fulfill personal dreams”); letter of Daniel da Silva, nephew (he was “always concerned that my mother, my brother and I had access to good housing, health and an excellent education”); letter of Fernando Pereira, nephew (“with the help, encouragement and guidance of my uncle, I was able to enter [the] renowned . . . Le Cordon Bleu”); letter of Tania Belisario, sister-in-law (he “helped me a lot in the education of my children, giving support in moral formation in the[ir] studies and giving financial support”); letter of Carina Santos, sister-in-law (“I am going through very difficult times financially, and [he] was ready to help my daughter and me so we would not be in need”).

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In her letter, Luciana Pereira, Jose Carlos' youngest niece, provides an apt description of the man the family calls "Ze":²

[Uncle Ze's] affection followed me throughout my life, and he was always extremely considerate and patient, talk[ing] with me at every stage I am eternally grateful to him for all the times he counseled, cared, and treated me like a daughter. A few years ago, my family suffered a great loss when my grandmother passed away. My uncle supported us like a rock and gave us the love we needed, . . . help[ing] everyone face their grief first. My uncle has always been a safe haven for everyone who knows him [H]e is affectionate, kind and patient with everyone who might need him. He is a person who would take a step forward to help anyone in need.

Letter of Luciana Pereira.

D. Good Deeds

As the letters to the Court reflect, Jose Carlos' good deeds are legion. See letter of Fabio da Silva ("[h]e always said that helping people is good for the soul").

First, Jose Carlos has made a difference in the lives of his friends. See, e.g., letter of Francisco Lima ("[h]e made a huge difference in my life!!!"). In her letter to the Court, Regina Genari tells of the "faithful friendship" between Jose Carlos and her husband, Tulio, who lived together in Botucatu during school. When Tulio was stricken with cancer at a young age, Jose Carlos stepped forward:

Upon learning of the disease that victimized my husband, José Carlos was extremely shaken and promptly took care of searching for medical specialists around the world He managed to get Tulio to be consulted with [a specialist] here in Brazil and also helped us to import the medicine [the specialist] prescribed, which was purchased in France I can't thank him enough for everything he

² In many of the letters, Jose Carlos is referred to as "Ze"; the name is a shortened version of Jose.

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has done for my husband, especially for listening to him, for visiting him, for . . . encouraging him and hugging him even at the moment of his farewell.

Letter of Regina Genari.

Other friends recount similar stories. When a friend's son was dying due to severe convulsions, Jose Carlos "showed [the friend] the way to seek medical treatment." Letter of Arielle Luft. When a friend's relative was at serious risk of losing her sight, Jose Carlos "sponsored a delicate and expensive retinal surgery, preventing [a] fateful outcome." Letter of Aluizio Reis. When a friend's daughter died due to malpractice, Jose Carlos was "always by the friend's side, comforting, listening . . . always available to any situation, even financial if necessary." Letter of Francisco Lima. And when friends needed advice, Jose Carlos "was always available . . . listening and interacting in a very objective way." Letter of Alexandre Senra ("this was not a constant for me alone, as other friends had this affection on his part"); see also letter of Olivier Rollin ("[h]aving gone through different hardships in my professional and personal life, I have found in him a guiding mentor and inspiration"); letter of Rizia Porto ("he helped me with my daughter who has . . . psychiatric and neurological issues; it is hard to talk about him without getting emotional").³

³ One letter is from a man whom Jose Carlos met during their time together at the MDC. The man writes:

I consider Mr. Grubisich a person of good character, based on the moral support he gave me in my difficult times with my family and he helped me to get closer to God. I will not forget those moments when we met to pray and the good advice that Mr. Grubisich gave me like a son On a personal note Mr. Grubisich has

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Second. Jose Carlos has also shown concern for those who work for him on the properties that he owns. One employee writes this:

I started working for Mr. Jose Carlos in 2008 and I am very grateful for everything he offered us all my life. No one has ever welcomed me as well as Mr. Jose Carlos and his family My oldest daughter graduated from college with the help and encouragement of Mr. José Carlos I say this because many times he helped us with expenses and college tuitions as we are a simple family I have two boys, they are twins and many times he welcomed my children as if they were his children, guided them and taught them what was right, and today my two boys are good and hardworking men and I cannot stop expressing my gratitude and trying somehow to help this man who helped me and my family so much.

Letter of Luzia Gomes.

When an employee was diagnosed with prostate cancer, Jose Carlos “took all measures at [his] grasp so that [the employee] had the best treatment available.” Letter of Paulo Trevisani. Likewise, when another employee became sick, Jose Carlos “paid for the entire treatment with exams, doctor appointments, medication and ultrasound.” Letter of Benedito de Santana (“I will owe him for all my life”). When an employee’s daughter was born with special needs and she had to stop working, Jose Carlos was “helpful . . . and even today he offer[s] his assistance to us.” Letter of Avani Batista. Jose Carlos helped another employee “build [a] house and . . . purchase a vehicle” and showed “great interest in [his] daughter’s education by offering her the opportunity to move to a big city where she would have a better life.” Letter of Zenildo

supported me and my family morally and with charitable donations. Like IPADS for my children to continue studying online.

Letter of Angel Vasquez Campos.

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Vieira; see also letter of Luiz Barros (“Mr. Grubisich is . . . committed to his employees and their families . . . sponsor[ing] vocational training as well as literacy courses [and] tutoring”).

What comes through clearly from the letters is that Jose Carlos “is a boss who has never acted as if he was superior” to those who work for him. Letter of Itamar de Paula. He has never “forgotten about Itatinga [nor] left aside [its] way of being.” Letter of Pastor Carlos Alves. His kindness and generosity have been personal.

Third. Jose Carlos has advanced the communities in which he lives. He has given money, cattle to auction, and construction material to the local church, hospital, and senior residence in Itatinga. See letter of Itamar de Paula (Jose Carlos “helped with the renovations of Lar Vicentino [the local church] by funding material and labor necessary . . . and often helped our hospital by making countless contributions and providing prizes to help raise donations”); letter of Father Luis Santos (“he was always ready and willing to help in a concrete way [with] social assistance projects . . . the city’s asylum and local hospital as well as activities or projects of the Catholic Church in Itatinga”). As the retired principal of the town’s school writes, “[a]ll the people in our city . . . know they can count on [Jose Carlos] whenever they need him.” Letter of Maria Barnabe.

Much the same is true for the region where Jose Carlos and Katia have built a seaside house:

In the region where he built a leisure residence, I saw José Carlos have an eye for socio-environmental valorization, leading movements for the installation of garbage collection bins, construction of classrooms for native children and youth, and even making himself available for the construction of a police module on the

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northern coast to ensure the safety of hundreds of residents living along the shore. I was very struck by his public spirit José Carlos was a promoter of social commitment and collective responsibility, stimulating everyone's participation, understanding that deep transformations can only happen when there is a collective understanding of its strength.

Letter of Aluizio Reis.

We recognize that Jose Carlos is now a wealthy man, but so are many people who do little for others or for whom philanthropy is self-promotion. The myriad acts described above come from the heart without fanfare or desire for recognition.

Fourth. Jose Carlos has devoted considerable time and resources to non-profit organizations and public projects aimed at improving the quality of life for Brazilians. Maurice Nahory, the Director of the Alliance Francaise de Sao Paulo, writes about Jose Carlos' contributions to the Alliance as its Chairman. When Jose Carlos joined the organization it was in debt and on the verge of extinction. In his eight years as Chairman, Jose Carlos led the "turnaround":

Mr. Grubisich showed for the Alliance an unwavering availability and attention which allowed not only [its] recovery . . . but its renewal and modernization. The requests that I addressed to him were numerous. The work meetings . . . always took place in the evening These are all moments that we generally prefer to devote to personal and family life and that Mr. Grubisich has dedicated to an educational, cultural and social mission I greatly appreciated his rigor as a manager, his ethical standards and his intellectual honesty, which always made him prefer . . . the long term of the institution rather than short-sighted arrangements I have been able to appreciate a great generosity . . . and a lucid and communicative optimism.

Letter of Maurice Nahory; see also letter of Olivier Debray ("[h]is authority and foresight have greatly helped us to steer the Alliance Francaise in difficult times"; "his sense of humor and quiet

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strength are his hallmarks”). As with all his public service, Jose Carlos worked diligently without compensation.

In 2011, for his work for Alliance Francaise and, more generally, for promoting relations between Brazil and France, the French Prime Minister inducted Jose Carlos into the prestigious Legion of Honor. Antoine Pouillieute, the former French Ambassador to Brazil, explains the significance of the award:

[Jose Carlos] is a central figure in support of the bilateral relation between Brazil and France. His commitment as Chairman of “São-Paulo Alliance française” is clearly identified: in cultural as well as in educational, and social fields. Even more, he is always deeply concerned by dialogue, openness, and mutual respect. To attest his incessant and positive dedication, the French Prime minister awarded him with “Legion d’Honneur,” France’s highest decoration.

Letter of Antoine Pouillieute. In Ambassador Pouillieute’s words, being inducted in the Legion of Honor was “amazing for a Brazilian citizen.” Id.

There is more. In 1998, at the request of the Brazilian Health Minister, Jose Carlos helped create the country’s National Health Surveillance Agency, the equivalent of the FDA in America. See letter of Raul Cutait (“his determination and public spirit in conducting the project was impressive”). From 2006 to 2015, he served on the Advisory Board of Fundacao Abrinq, an organization devoted to the defense of the rights of children and adolescents. See Statement of Fundacao Abrinq (Jose Carlos “demonstrat[ed] his assiduous interest and dedication” to Abrinq, “exercising his duties . . . with the highest excellence”). He has been a strong supporter of Brazil’s leading cancer hospital. See letter of Miriam Miranda, Director of the Carmen Prudencio Foundation (“I could always count on his financial and media support, always wanting to help and

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being attentive”). And he has aided Centro de Promocao Social Conego Luiz Blasi, an organization that provides services and training for low-income children. See letter of Luciana Ferrari (he contributed “always anonymously [not seeking] recognition for [his] actions”).

Jose Carlos also served as Chairman of the Board of ANDEF, the association of pesticide manufacturing companies in Brazil. Under his leadership, ANDEF began a program for the recycling of contaminated agrochemical packaging. Joao Rando, who succeeded Jose Carlos as Chairman, describes the project:

Jose Carlos encouraged the creation of a program to deal with post-consumption empty agrochemical packaging I assumed his position in the ANDEF Board, continuing and supporting the project. This project resulted in the creation of . . . a non-profit organization that manages the reverse logistics program for post-consumption empty packaging in Brazil. It is a program that makes a great contribution to the environment, health of people living in the countryside and a model of circular economy.

Letter of Joao Rando.⁴

Jose Carlos has always believed strongly in the importance of “integrating academia and the productive sector.” Letter of Goncalo Pereira. He organized events between entrepreneurs and academics that “led to an improvement in national business competitiveness and the training of a large number of young professionals.” Id.; see also letter of Denoyer Asencao (“testify[ing] to [Jose Carlos’] constant support to academic studies through joint projects between companies and universities and awards to the best students in chemistry”). Speaking to students

⁴ Jose Carlos also worked with two NGOs -- Casa do Zezinho and Gold de Letra -- that foster the education of children in need. See letter of Francois Dossa.

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has been a passion. See letter of Isidoro Gesteira (“[w]henever [Jose Carlos] was in Ilheus he kindly came to give free lectures for the good of our students”). Like his parents, Jose Carlos has preached that education is the foundation for success. See letter of Rizia Porto, teacher (recalling “his generosity in rewarding [our] students . . . thus encouraging [them]”).

E. Offense Conduct

Jose Carlos has accepted responsibility for his criminal conduct. In his guilty plea, he said this:

[F]rom 2002 to July 2008, I was the CEO of Braskem, a Brazilian petrochemical company, whose American depositary shares trade on the New York Stock Exchange. Odebrecht was the controlling shareholder of Braskem. In or around 2005, Braskem entered into a contract with Petrobras, a state-owned oil company, to build and operate a polypropylene plant in Paulinia, Brazil. After the contract was executed, I was informed about, and agreed to, a commitment to make payments to a Petrobras official, identified in the Indictment of Foreign Official-1, and others in exchange for their assistance in retaining the contract.

During my tenure as CEO of Braskem, the CEO of Odebrecht, who was also the Chairman of the Board of Braskem, informed me that Braskem needed to create an off-the-books slush fund, called “Caixa 2.” I agreed with others that Braskem would establish and allocate funds to Caixa 2. As I was informed, the Caixa 2 structure involved the creation of off-shore shell companies. Those companies did not provide legitimate services to Braskem but were used to divert money to Caixa 2. Despite my knowledge of the existence of the Caixa 2 structure, I agreed to treat the payments in Braskem’s books and records to shell companies as if they were for real services. I also agreed to sign certifications submitted to the SEC attesting that Braskem’s 2006 and 2007 annual reports accurately represented Braskem’s financial condition and that all fraudulent conduct had been disclosed. The certifications hid the existence of the Caixa 2 structure and treated the payments to the shell companies as if they were for real services. As CEO of Braskem, I was aware that Braskem was required to keep accurate books and records, and I had the ultimate responsibility to ensure that our SEC certifications were materially accurate.

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I knew that all of this conduct was not lawful or correct, and I really regret that I failed to fulfill my responsibilities as CEO.

Tr. 4/15/21 at 24-25.

F. Discussion

Jose Carlos' guideline range is 120 months' imprisonment. But it is now "emphatically clear that the Guidelines are guidelines -- that it is, they are truly advisory." United States v. Cavera, 550 F.3d 180, 189 (2d Cir. 2008). That principle is familiar to the Court and need not be belabored.⁵ What bears emphasis is that this is not a "heartland" case. Mr. Grubisich's "history and characteristics" set him apart from most defendants. See 18 U.S.C. §3553(a)(1). Moreover, this is the unusual case in which the Court is called upon to sentence a defendant in 2021 for conduct that occurred years before. See United States v. Polito, 215 F. App'x 354, 356 (5th Cir. 2007)(lengthy time between commission of offense and sentencing coupled with positive way defendant comported himself during that period supported a non-custodial sentence).

The conduct to which Mr. Grubisich has pled guilty occurred when he was part of the Odebrecht sphere, where corrupt practices were deeply entrenched well before his arrival. He agreed to honor a commitment made by others to pay a bribe to a Brazilian official and to the creation of an off-the-books slush fund. He signed certifications to the SEC that hid the existence

⁵ The guideline calculation here is driven by two factors: (i) the benefit that Braskem obtained as a result of the bribe payment (\$8.3 million) and (ii) the total sum that went through Braskem's Caixa 2 in the years 2006 to 2014, the full scope of the alleged conspiracy (more than \$250 million). We have stipulated to these amounts, but they do not reflect Mr. Grubisich's culpability. Notably, during his tenure at Braskem (2006 to June 2008), \$37 million was directed to Caixa 2.

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of that fund. An outsider hired for his technical expertise and not his political connections, Mr. Grubisich did not initiate those crimes and did not profit directly from them. His greatest regret is not walking away. Now retired for four years, Mr. Grubisich has had no involvement with Odebrecht since early 2012.

Mr. Grubisich's tenure at Rhodia (before his time at Braskem) and at ETH and Eldorado (after his time at Braskem) earned him the respect of his colleagues and the communities in which he did business. So the question here is this: is a prison sentence necessary for a corporate executive who has pleaded guilty to conduct now some 15 years old?

Mr. Grubisich has already suffered significant restraints on his liberty. After his arrest, he served four months in the MDC just as the COVID-19 pandemic took hold. For much of that time, either because of gang violence or the threat of disease, he was confined to his cell. Following his release in March 2020, he spent two months in full house arrest with electronic monitoring before being allowed to venture out (first for an hour a day and then gradually for longer). He has complied fully with the terms of his release. His 17 months' house arrest does not count toward a prison sentence, but it has greatly limited his freedom and should not be ignored. That is especially true in a time of pandemic when house arrest has meant separation from loved ones who could not travel here from Brazil. Home confinement 5,000 miles from home has not been easy.⁶

⁶ Many of the "Operation Carwash" defendants sentenced in Brazil for their roles in bribery crimes received home confinement sentences.

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Moreover, Mr. Grubisich's status as a non-citizen also counsels against a further prison sentence. Non-citizens are not eligible for federal prison camps and therefore serve their sentences in institutions that are more restrictive and have fewer opportunities for visitation and programming. Camps are fenceless, and inmates move freely, whereas low-security facilities have perimeter barriers (high fences with razor ribbon), and movement between locations is permitted only in set intervals. Chances of being assaulted are higher in low-security facilities, principally because many inmates are there for violent crimes and have gang affiliations. Even more significantly, non-citizens are ineligible for halfway house release and other programs that let inmates out before the end of their terms.⁷

In the event he is not transferred directly from federal custody to Brazilian authorities, Mr. Grubisich would be moved to an immigration facility at the completion of his sentence. Conditions there are often poor and violent encounters prevalent. See OIG-19-47, Concerns about ICE Detainee Treatment and Care at Four Detention Facilities, at 3 (June 3, 2019). He could remain there for several weeks or more. See "ICE: Remove," <https://www.ice.gov/remove> ("ICE removal operations require complex coordination, management and facilitation efforts to successfully remove/return non-citizens from the United States").

⁷ Under the plea agreement, the government has committed not to oppose Mr. Grubisich's application to transfer any incarcerative sentence to Brazil. But a transfer is not guaranteed. See Plea Agreement at ¶ 15. Even if a transfer is approved, Mr. Grubisich would have to serve a portion of any prison sentence here in a non-camp facility.

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Recently, then Chief Judge McMahon took all of this into account in sentencing a non-citizen defendant convicted of fraud to a non-custodial sentence. At sentencing, she said this:

If I could sentence Mr. Black to a term of incarceration -- a brief term of incarceration -- knowing that he would go to a facility appropriate to his criminal conduct, I would do it. But I know that I can't. I know that simply because he is a non-citizen . . . he will not be eligible to serve his sentence in the same way that any American citizen who stood convicted of this crime would serve And for reasons that are incomprehensible to me, were I to sentence him to a short term of imprisonment . . . at the end of that term he could not walk out the door and be picked up . . . and taken to the airport. He would be treated like an illegal alien, and he would be released into the custody of ICE, and at some point . . . he would be deported. And that's not right.

See United States v. Connolly, 16 Cr. 370 (S.D.N.Y. Nov. 19, 2019), Doc. 457 at 91-93. These severe consequences support a non-custodial sentence in this case.

It also bears note that Mr. Grubisich is 64 years old and suffers from chronic coronary disease. The worst of the pandemic may be behind us, although there have been significant outbreaks in several facilities of a strain that is particularly virulent. Hui, "The State of COVID-19 in U.S. Prisons," Verywell Health, July 9, 2021 ("as the highly transmissible Delta variant circulates widely, [inmates] may be even more susceptible to the virus"). The reality is that prison remains a hostile environment for anyone whose health is an issue. At present, an inmate entering a federal facility must quarantine for up to 21 days in an isolation cell. Once released into general population, he can have only two visits a month of two hours each and without human contact. (Visitation would be even more difficult for family living in Brazil.) In short, any prison sentence would be "hard time" for Mr. Grubisich.

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Perhaps more than anything, what cries out for leniency is the life that Mr. Grubisich has lived. As his lawyers, we have come to know Mr. Grubisich as a good and decent man -- a successful businessman who radiates humility and dignity. It was not until the attached letters began to pour in that we came to appreciate the respect that he has earned world-wide. Few people can claim a record of accomplishment and good works that rivals his. He has done so much for so many, “treating everyone around him the same way.” Letter of Maria Fagundes (he makes “[n]o distinctions of color, race, sex or socioeconomic condition”).

In his letter to the Court, Jose Neto, a close friend, writes that “nothing matches [Mr. Grubisich’s] life story.” Letter of Jose Neto. That is hyperbole, but one understands the sentiment. From mixing chemicals in his room and travelling unpaved roads to school to leading international companies and earning the Legion of Honor and other awards, Mr. Grubisich’s life has been a remarkable journey. More prison time is not necessary to do justice.

G. Conclusion

We have tried in this submission to explain why we believe so deeply that a time-served sentence is warranted. We recognize that Mr. Grubisich was CEO of a large company, one whose shares traded on an American exchange, when he committed the conduct for which he will be sentenced. That surely matters. But, on this record, a sentence of time served would not diminish respect for the law. It would be seen as a just outcome for a man who has shown uncommon devotion to humanity and to individuals in their times of need. See United States v.

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Adelson, 441 F. Supp. 2d 506, 513 (S.D.N.Y. 2006)(“if ever a man is to receive credit for the good he has done . . . it should be at the moment of his sentencing”).

Respectfully submitted,

BRACEWELL LLP

/s/ Paul Shechtman

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PS/wr
Attachment